

## **Conservation Commission, March 5, 2012**

Town of Scituate

Conservation Commission

Town Hall Selectmen's Hearing Room

Meeting Minutes

March 5, 2012

Meeting was called to order 6:15 at p.m.

Members Present: Mr. Snow, Chairman, Mr. Breitenstein, Mr. Greenbaum, Mr. Parys, Ms. Scott-Pipes, Mr. Tufts.

Also Present: Paul Shea, Agent, Carol Logue, Secretary, Allan Greenberg, Associate Member

Agenda: Motion to accept the agenda Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Request for Determination: Columbia Gas, Border Street (gas main replacement)\*

Joshua Bows, Merrill Associates was present at the hearing. Gas main replacement at intersection of Gannett and Border. Existing steel main will be replaced with a 2" polyethylene main. Brad Holmes delineated the wetlands on each side. Open trench method 2' to 3' wide, 3' to 4' deep, backfilled and compacted and usually patched at the end of the day. There may be times they put a steel plate over the end. No work will be done in the rain. Excess material trucked offsite. Erosion controls placed between roadway and wetland. Ms. Scott-Pipes: Bike path is in the process of being built. Will not impact. Keep staging area outside buffer. Mr. Breitenstein: Place erosion controls around the staging area. Mr. Tufts: Keep an eye on the erosion controls. Will maintain throughout project. Mr. Greenbaum: staging area could be in the same location as the bike path staging. We just approved a project on Border Street for a pipe under the road exactly where you are ending, may be in conflict. Mr. Shea: The owner of 8 Border is working with DPW. Gas Co. reports all work to the DPW, but will make a note of that. Typically gas main sits over the pipe. Motion for a negative 2 & 3 determination - "The work described in the Request is within an area

subject to protection under the Act, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent.” “The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any).” Ms. Scott-Pipes. Second Mr. Parys. Motion passed by unanimous vote.

Request for Determination: Columbia Gas, 245 Chief Justice Cushing Hwy./ Neal Gate intersection (install gas main)\*

Joshua Bows, Merrill Associates was present at the hearing.

Installation of 3300’ of 8” polyethylene gas main from traffic circle to Neal Gate Street. Portions of project are within BVW, associated with Herring River and riverfront, and within the flood zone of the Herring River. Installation method is the same as discussed above. No work during rain. Erosion controls between work and resource areas. Motion for negative 2 and 3 determination - “The work described in the Request is within an area subject to protection under the Act, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent.” “The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any).” Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Request for Determination: Calnan, 72 Stockbridge Road (septic repair)\*

Sean Woods, Cavanaro Consulting was present at the hearing. Project is a septic repair. Chose the area for least impact on trees, garden, amount of grading, and size of mound. System is no closer than 60’ to the wetland across Common Street. The cesspool will be abandoned, but preserving the septic tank. Approved by Board of Health. Mr.

Breitenstein: catch basin adjacent to the garden area, any impacts? No impacts. Isn’t there sewer in that area? No sewer line; comes up from Stockbridge to the berm near the Green Connection. Lot of antique homes with septics. Motion for a negative 3 determination - “The work

described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any).” Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Request for Determination: Clark, 61 Hughey Road (remove trees within 50’ of pool & abutter access)\*

Steve Lind was present at the hearing representing Bill & Mary Clark. Trees in back yard leaning toward house. Neighbor had a large tree fall, it took down wires and damaged the house. Want to clear area 50’ back from the fence. Spoke to neighbor in rear for access to use cable and pull trees over; leave stumps, and brush. Met with Todd Breitenstein this afternoon. Approach he would like to see would be to mark the trees that are considered really dangerous with an arborist, and do some selective cutting. Ms. Scott-Pipes: might have to file a Notice of Intent. Want the trees marked before any work is done. Going to damage a lot of undergrowth dragging the trees out. Mr. Breitenstein: question of methodology also. Didn’t look like a crane could reach the area. Mr. Greenbaum: can use a crane and pick up the trees so nothing touches the ground. Think we need an NOI. Mr. Parys: just remove the ones that are hazardous. Paul Shea: submission doesn’t show a wetland edge; needs to be flagged. Pool is clearly in the 50’ buffer. A lot of the trees are in the wetland. Will need mitigation. Mr. Snow: how many trees will be removed? His idea was to clear the area. Mr. Shea: If there were 1 or 2 dead trees, usually tell them to take them down and deal with filing afterward. He had a couple of people come out, but there is no access. Need a positive determination. Submit Notice of Intent and send in photos. Came in with the RDA to find the best approach. Commission thanked him for talking to them, instead of just doing the work. Motion for a positive 1 and 3 determination - “The area described on the referenced plan(s) is an area subject to protection under the Act. Removing, filling, dredging, or altering of that area requires the filing of a Notice of Intent.” “The work described on referenced plan(s) and document(s) is within an area subject to protection under the Act and will remove, fill, dredge, or alter that area. Therefore, said work requires the filing of a Notice of Intent. Ms. Scott-Pipes. Second Mr. Tufts. Motion passed by

unanimous vote.

Request for Determination: So. River Partners / Solimando, 33 Central Ave./8 Dartmouth (restroom sonotubes)\*

Michael Solimando was present at the hearing representing South River Partners, LLC. Existing dock was built 2 years ago and Board of Health is requesting a bathroom facility on the dock. In order to support that, need 2 more piles, 4' off the existing pier and 8' apart. Originally was going to rent space at the marina, but the owner decided against it. Wanted to put a port-a-potty, but BOH wouldn't allow. Pump system; 2" pipe attached to the pier that runs to existing system; plenty of room in the septic. There are 4 less bedrooms and BOH has already approved. All the Commission is approving are the piles. Mr. Snow: CofC for the dock? Believe there is a partial. Hadn't completed the planting. Are there any other complications? Do any other agencies have to approve it, Chapter 91 or Army Corps? Why does it have to be at the end of dock, instead of on land? Most convenient place. Wasn't going to have bathrooms because it was just to be used by homeowners. Majority of people will be residents, but had to open site to the public. Don't see a problem with driving 2 more piles, but can we just amend the orders? Originally they had to submit to the other agencies. Don't want to make a huge deal, but maybe it should be an amendment. Mr. Shea: Know it has to have final BOH, but it is just a modification of the stamped plan. If he does an amendment, should refile for next hearing and notify abutters. Also make sure all the other agencies are notified. Could issue a negative determination subject to the existing orders and it would allow him to have the work done while the barge was there. If we review the orders, and it triggers a public hearing, he would have to file. If for some reason something was wrong, he would have to pull them out. Before our next meeting, get something from BOH. The piles are not interfering with anything, I could remove 2 other piles. Barge is at the yacht club right now, and going to do something at Paul Armstrong's, so it won't be there for another month. Mr. Greenbaum: orders would set the time frame. Mr. Bjorklund: can't see putting a building in the flood plain; that is a Planning Board issue. Mr. Snow: If it could be toward the parking area it would be out of the flood plain. Motion to continue the hearing to March 19, 2012 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Greenbaum.

Motion passed by unanimous vote.

Wetlands Hearing: EBC Bldg Corp./Ellis, 277-283 Chief Justice Cushing Hwy (2 single-families)\*

Applicant's representative requested a continuance. Motion to continue the hearing to March 19, 2012 at 6:40 p.m. Ms. Scott-Pipes. Second Mr. Parys. Motion passed by unanimous vote.

Wetlands Hearing: Lazaris, Trustee, Lot 1 77 Border Street (new build) (cont.)

Wetlands Hearing: Lazaris, Trustee, Lot 2 77 Border Street (new build) (cont.)

Greg Morse and Adam Brodsky were present at the hearing. Two principle issues: riverfront and additional fees if within the riverfront. Would like to close the hearing. Addressed the 200' riverfront area in a letter dated February 27, 2012 and provided a plan dated February 20, revised February 27, 2012. Delineated within DEP policies. Added a second note regarding debris clean-up. Revised location for mitigation plantings during site walk, 440 sq. ft. on lot 1. Discussed riverfront at length. Mr. Brodsky: Government has done all sorts of studies. Mean high water mark is 4.63' elevation, further confirmed by a superseding Order of Conditions for 107 Border Street. DEP also defined the ditches off the river as man-made; nonjurisdictional. Intermittent, no flow throughout the year and not large enough. Fortunate on the southern side at 87 Border Street line was determined; had to connect the dots and figure riverfront on this site. Creek falls under stream category, not part of the Gulf River. First indication is the USGS maps which don't show it as a river, doesn't meet the dimensions, therefore, not subject to the River's Act. Mr. Shea: Jim has concerns regarding the mean high water line and riverfront on the property. Talked to Board of Health, seems that everything wasn't filed with them. All the plans have been filed, expect approval; outside the 100' buffer. Regulations state only need to apply for all the permits. If any change in the reserve area, we would apply for an amendment, shouldn't hold up closing and conditioning. If the reserve area is moved, the house could be moved, then we have to reopen the hearing. Mr. Morse: only area suitable for septic and reserve. Reserve area will be the same size, physical access is the question. Mr. Shea; there is a coastal bank

issue. Jim will be back the 19th; advice is to continue to March 19. DEP clearly follows figure 3 for the delineation of a coastal bank. Until I received Jim's e-mail thought there were no issues and we were in agreement. Coastal bank issue is resolved. Feel like we are spinning our wheels. Not rocket science; client's instruction is to close. Mr. Snow: frustrated some of this has surfaced, on the other hand understand concerns, trying to protect the area as best we can. I think all the information has been brought forward. Either we deny or approve with conditions. Submitted everything we requested. Addressed the riverfront, coastal bank, and turned to experts. Mr. Brodsky: satisfied the performance standards. William Smith, 87 Border Street: only plan seen shows drainage going right to his property. Submitted stormwater report, catch basin and cape cod berm along driveway and there are sediment traps if any overflows. Pulled up limit of clearing 2', have an undisturbed buffer of 28' from lot line. Roof drainage is directed to the back of the property; slope runs toward Border Street. Runoff is less. Mr. Breitenstein: questions about the mitigation. Different footprint or change the driveway to be out of the 50' buffer. There are improvements that can be made. Concerned about the location of the mitigation. What it will do to benefit the resource. Existing house calculated 57.3' away from resource, part of patios and decks are approximately 53' from the resource. Lot 1: Take main box of house, demo garage and relocate to Lot 2. Structure on Lot 2 from deck to BVW line is 94.4'. The structure is outside the 100'. Lot 1 is a new structure, changed foundation, now 56' from the resource; deck is 51'. Overall structure within the buffer zone is 801 sq. ft. There are disturbed areas on both lots. Know there are areas on Lot 2 that could benefit from mitigation, could split up the 440'. Ms. Scott-Pipes: You have BOH approval? Yes. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Parys. Motion passed by unanimous vote.

Discussion: Grady / Mankewich, 425 Hatherly Road (Certificate of Compliance)

Jamie Mankewich was present. Mr. Grady had another hearing and was unable to attend. Mr. Shea sent Rick Grady an e-mail regarding the issuance of the Partial CofC and asked him to attend the hearing. Issues at the site: engineer said everything was in full compliance. Want them to explain the letter. Mr. Snow: Jim was frustrated. Sent a

letter that everything was in compliance; for an engineer to send out a letter stating that, doesn't sit well. Lawn larger on side; limits of work line and clearing of trees was different, and rain gardens weren't the right size,. Reschedule and have one of the engineers here. Dug out more for the rain gardens already, but can't plant yet. Mr. Greenbaum: West and northwest side, unfortunately there was not supposed to be lawn. Looks like a pipe should have been under the driveway. There is an existing pipe under the driveway, but it's clogged. This was a tough lot, the Commission went out of their way to allow this, altered the 50' zone. The key thing is build according to the plan. How do we get back to where we should be. Mr. Bjorklund: looked into this in trying to help Jamie; Tony Riccardi originally bought this lot, difficult access to do perc tests; met with Vin Kalishes, who said the percs were done right; a lot more was cleared before Jamie got involved. The OofC was issued after the clearing had taken place. Number of people been involved. Can he clean up the clogged pipe? The real issue is Grady shouldn't have written the letter. Talked to DPW, could offer 2 days of an excavator for the Bailey's Causeway parking lot. When a CofC is requested, the site should be perfect. Come back on the 19th and bring Mr. Grady. Should he continue to talk to DPW for offsite mitigation? Encroached on a significant amount of wetlands. It was a mature wetland before the lot was touched. Get the pipe working.

Show Cause Hearing: Totman, Turner Road

Mr. Totman was in the office earlier in the day and said he would be late tonight. Said he did not install a water line, he fixed a leak. He was seen working behind "Riddles/Scotties" last week. Need to find a way to make him cooperate. Believe he brought fill in and regraded the road. He did not attend the meeting.

Orders of Conditions: Sheehy, Lot 4B Pheasant Hill Drive (new build)  
Motion to condition the project Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Mr. Bjorklund: 425 Hatherly Road: Original Orders were for soil tests, Mr. Kalishes said it was done correctly. Cleared site after the soil tests were done.

Mr. Greenberg: Mr. Shea can't look at 425 Hatherly--he has a report in the file. Mr. Bjorklund: nothing to look at. Ask Mr. Kalishes to write a letter.

Extension: Woolf, 25 Julian Street

Motion to extend Woolf, 25 Julian Street for 3 years Ms. Scott-Pipes.  
Second Mr. Parys. Motion passed by unanimous vote.

Minutes: Feb 6, 2012

Motion to approve the minutes of February 6, 2012 Ms. Scott-Pipes.  
Second Mr. Parys. Motion passed by unanimous vote.

## CORRESPONDENCE

February 23, 2011 – March 5, 2012

1. Mass Wildlife
2. Recording of OofC 68-2392 – 37 Strawberry Lane (in file)
3. DMF Newsletter – Marine Fisheries
4. DEP – Superseding Order of Conditions – Affirmation – Denial – 68-2366 – McKay, 20 Ocean Front (in file)
5. DEP – Superseding Order of Conditions – Affirmation – Denial – 68-2365 – Morel, 22 Ocean Front (in file)
6. Request for Extension – 68-2145 - Proctor, Lot 57 Crescent Ave. (sent request for \$100) (in file)
7. Request for 3-year Extension – 68-2177 – Colella, 10 Lincoln Street (sent request for \$100) (in file)
8. Revised plan for Lazaris, 77 Border Street (Lots 1 & 2) – 68-2389 & 68-2390 (in file)
9. Stamped plan for 68-2304 - Scituate Harbor Yacht Club, 84 Jericho Road (in file)
10. Planning Board Approval for Common Drive for 277-283 CJCH/18 OOB with 11 conditions (in file)
11. Info re: 8 Palfrey – (need to file RDA)
12. Mitigation report re: 277 & 283 CJCH/18 OOB (in file)
13. Murphy, Hesse, Toomey & Lehane, Superior Court re: Lot 2 Glades Road. - Burek vs Scituate ConCom – Notice of Appearance on behalf of the Defendants.
14. Murphy, Hesse, Toomey & Lehane, Superior Court re: Lot 2 Glades Road – Fairbanks vs. ConCom (in file)



15. Resubmitted Request for CofC for 68-1887 – Mankewich, 425 Hatherly Road (in file)
16. Request for 3-year Extension for 68-2152 – North River Marina, 12 CJCH (in file)
17. MassWildlife News
18. E-mail to Rick Grady for him and Jamie Mankewich to attend March 5 meeting at 7:15
19. Request for Extension – 68-2121 = Robert Woolf, 25 Julian Street (in file)
20. Atty. Brodsky re: Request for Zoning Enforcement for M.E.N. Realty Trust and M.E.N., LLC, 106-108 Stockbridge Road (in file)
21. Request for CofC for 68-1786 – 425 Hatherly Road (soil tests) (in file)
22. Land Stewardship Incorporated – support for Conservation Commissions, Planning Board, Open Space & CPC – Trail Mapping,
23. Planning Board - Accessory Dwelling Special Permit Application 129 Stockbridge Road – COMMENTS by 3/20/12
24. Notification to abutters form – McClintock & McWade, 63 Glades Road (septic repair) (in file)
25. DEP On-Site Inspection – 68-2354 – 214 Clapp Road, Thursday, March 15, 2012 at 10:30 a.m. (in file)
26. Planning Board Agenda for Thursday, March 8, 2012
27. Request for continuance to March 19, 2012 for 277-283 Chief Justice Cushing Hwy. & 18 OOB (in file)
28. Abutters notification for 63 Glades Road – Certificate of Mailings (in file)
29. Doug Friesen of Duxborough Designs, is acting as agent for 157 Turner Road (in file)
30. Recording of Order of Conditions for 68-2388 - Mitchell, 62 Surfside Road - Bk 41034, pg 317 (in file)
31. Recording of Order of Conditions for 68-2391 – Devine, 117 River Street – Cert. 116037, Bk 00580, pg 37 (in file)
32. Recording of Order of Conditions for 68-2121 – Woolf, 25 Julian Street (in file) (needed for extension)
33. Request for CofC for 68-662 – 56 Moorland Road (downstairs)
34. Request for CofC for 68-1953 – 56 Moorland Road (in file)

Meeting adjourned 8:30 p.m.

Respectfully submitted,

Carol Logue, Secretary